

REQUIREMENT FOR INFORMATION – 37 C.F.R. § 1.105

1. Applicants argue in their response (paper #12, p.14) to the first Office Action that:

“... it is Applicants' position that the Pixon® method is distinct from the invention claimed in the present application.

However, much of the claimed material in the instant Application has been found in prior publications published by the Applicants – publications relating to image reconstruction. For example, the formula in claim 5 (also eq.3, p.9 of the specification) was found in 2 different publications authored by the Applicants:

1. Puetter, R.C. “Pixon-Based Multiresolution Image Reconstruction and the Quantification of Picture Information Content”, Int'l. Journal of Image Systems & Technologies pp.314-331, Winter 1995. (Referred to in the rejection of claim 5 in paper #10 as “**Puetter Publication 2**”)
2. Puetter, R.C. “The Pixon(r) Method of Image Reconstruction”, Proc. ADASS '98 (Nov. 1-4, 1998). In Astronomical Data Analysis Software and Systems VIII, Vol. 172, pp.307-316. (Referred to in the rejection of claim 5 in paper #10 as “**Puetter Publication 17**”)

The only difference between the claimed invention and the cited prior art by Puetter appears to be intended use (financial data instead of image data). Applicants are reminded that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

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Applicants are referred to Puetter Publication 2 (p.1, col.2, para.2), where Mr.

Puetter teaches that:

"... we hope to demonstrate that pixon-based methods have consequences and implications for fields outside of image restoration/reconstruction, including data compression and information theory"

2. **Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application:**
 - User manuals and operator manuals of the Pixon® image processing method and the Algebron™ data processing method, copyrighted on or before 1998.
(The two Puetter references cited above have copyrights on or before 1998)
3. Applicants have described these products in the instant application and in the prior art, so examiner finds it reasonable to assume that such documentation exists.
4. **The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement.** This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97.
5. **The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56.** Where the applicant does not

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have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete reply to the requirement for that item.

6. This requirement is subject to the provisions of 37 CFR 1.134, 1.135 and 1.136 and has a statutory period of 3 *months*. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ayal I. Sharon whose telephone number is (703) 306-0297. The examiner can normally be reached on Monday through Thursday, and the first Friday of a biweek, 8:30 am – 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on (703) 305-9704. Any response to this office action should be mailed to:

Director of Patents and Trademarks
Washington, DC 20231

Hand-delivered responses should be brought to the following office:

4th floor receptionist's office
Crystal Park 2
2121 Crystal Drive
Arlington, VA

The fax phone numbers for the organization where this application or proceeding is assigned are:

Official communications:	(703) 746-7239
Non-Official / Draft communications	(703) 746-7240
After Final communications	(703) 746-7238

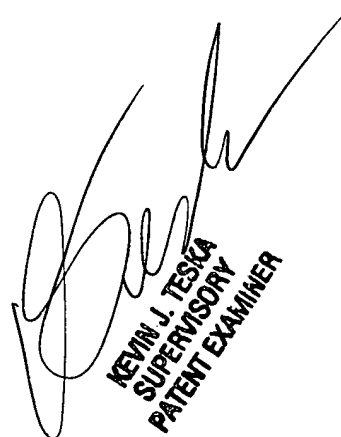
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Any inquiry of a general nature or relating to the status of this application
or proceeding should be directed to the receptionist, whose telephone number is:
(703) 305-3900.

Ayal I. Sharon

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January 30, 2003



KEVIN J. TESKA
SUPERVISORY
PATENT EXAMINER